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11	JAIME AGUIRRE ,)	Case No. CV 22-06676 DDP (MRWx)
)	
12	Plaintiff,)	
)	
13	v.)	ORDER GRANTING DEFENDANTS' MOTION
)	TO STRIKE FIRST AMENDED COMPLAINT
14	KATHRYN BARGER, ET AL.,)	
)	[Dkt. 33]
15	Defendants.)	
)	

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17 Presently before the court is Defendants Kathryn Barger,
 18 Janice Hahn, Holly Mitchell, and Hilda Solis' Motion to Strike and
 19 to Dismiss Plaintiffs' First Amended Complaint (Dkt. 33). Having
 20 considered the submissions of the parties, the court grants the
 21 motion and adopts the following Order.¹

22 **I. Background**

23 Plaintiffs initially filed a Complaint alleging, on behalf of
 24 a putative class, that while incarcerated in "the Los Angeles

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26 ¹ The court, preferring to decide issues on the merits where
 27 possible, has considered both of Plaintiffs' oppositions and both
 28 of Defendants' replies. (Dkts. 35, 36, 37, 39.) The court
 reiterates that it expects counsel for all parties to work
 professionally, collaboratively, and in full accordance with the
 letter and spirit of all applicable rules of procedure, including
 the Local Rules, and notes further that, thus far, counsel have not
 met this standard.

1 County jail," they "were forced to sleep on and inhabit the floors
2 and to exist in filthy and intolerable physical and mental
3 conditions." (Complaint ¶¶ 12,13.)

4 Plaintiffs' original Complaint named Defendants Kathryn
5 Barger, Janice Hahn, Holly Mitchell, and Hilda Solis (collectively,
6 "Defendants") in both their official and individual capacities.
7 (Compl. ¶¶ 11, 16.) Defendants moved to dismiss the Complaint
8 (Dkt. 19), and this Court granted the motion (Dkt. 26). The court
9 explained that Plaintiffs' individual capacity claims were barred
10 by legislative immunity, and dismissed those claims with prejudice.
11 (Dkt. 26 at 4.) The court further concluded that (1) Plaintiffs'
12 Monell claims were conclusory and (2) Plaintiffs' official capacity
13 claims were duplicative and redundant, and dismissed those claims
14 with leave to amend. (Id. at 4, 6-7.) The court explicitly stated
15 that leave to amend was limited to the scope of the court's Order.
16 (Id. at 8.)

17 Plaintiffs then timely filed the FAC (Dkt. 29.) Defendants
18 now contend that the FAC violates this Court's earlier Order and
19 should be stricken, or, in the alternative, repeats the pleading
20 deficiencies of the original Complaint and should be dismissed for
21 the same reasons. The court agrees.

22 **II. Discussion**

23 **A. Newly-named Defendants**

24 This Court dismissed Plaintiffs' individual capacity claims
25 with prejudice and, accordingly, struck Plaintiffs' punitive
26 damages claim. (Dkt. 26 at 4 n.1) Although the FAC does not re-
27 allege individual and punitive damage claims against Defendants, it
28 does allege such claims as to two entirely new Defendants: former

1 Los Angeles County Sheriff Alejandro Villanueva and current Sheriff
2 Robert Luna.² (FAC ¶¶ 3, 6). Plaintiffs never, however, sought
3 leave to amend the Complaint to add new defendants, and this
4 Court's grant of leave to amend was limited to the scope of the
5 issues discussed in the Order. Plaintiffs' Opposition appears to
6 suggest that Robert Luna and Lindsey Horvath were properly added as
7 Defendants because the FAC preserves the "right to amend to add
8 true names of fictitiously-named defendants."³ (Opposition at
9 21.)⁴ Indeed, the FAC does identify "10 UNKNOWN NAMED DEFENDANTS,
10 whose true identities presently are unknown," and alleges that
11 these unknown names "will be replaced by their true identities when
12 those true identities are learned." (FAC ¶ 3.) The thrust of
13 Plaintiffs' argument, however, is not clear to the court.⁵ As an
14 initial matter, Defendants Luna and Villanueva are named in the
15 same paragraph that also names the ten unknown defendants, and
16 therefore cannot be included among those ten. More importantly,
17 Plaintiffs' original Complaint gave no indication that Plaintiffs
18 sought to name, but were unable to identify, the Los Angeles County
19 Sheriff, past or present. Indeed, although the original Complaint
20 did also name ten unknown Defendants, it stated that "Defendants

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22 ² The caption of the FAC also now names Lindsey Horvath as a
23 Defendant, although Horvath is not identified or mentioned anywhere
24 in the body of the FAC. The FAC also brings an official capacity
25 claim against Sheriff Luna. (FAC ¶ 6.)

26 ³ See note 2, above.

27 ⁴ Here, and hereinafter, "Opposition" refers to Plaintiff's
28 second opposition, at Dkt. 37.

⁵ The court also notes that Plaintiffs' opposition does not
accurately quote the FAC. For example, extensive excerpts,
ostensibly spanning seven different paragraphs of the FAC, are in
fact drawn from Plaintiffs' original Complaint. (Opp. at 15-16).

1 all are County of Los Angeles supervisors," and that "[t]he other
2 unknown named defendants are or will be County supervisors."
3 (Compl. ¶¶ 4-5.) The court therefore rejects any contention that
4 Defendants Luna or Villanueva have been properly substituted in for
5 previously named unknown Defendants.

6 Moreover, Plaintiffs present no other argument as to how the
7 addition of new Defendants falls within the scope of this Court's
8 leave to amend. Instead, Plaintiffs assert that "no authorization
9 was needed because . . . a plaintiff is the master of his
10 complaint." (Opp. at 21:8-9.) Masters though they may be,
11 Plaintiffs are not free to simply disregard this Court's Orders,
12 and courts regularly strike new claims that exceed the scope of
13 leave to amend. See, e.g., Gerritsen v. Warner Bros. Ent. Inc.,
14 116 F. Supp. 3d 1104, 1124 (C.D. Cal. 2015); Bassam v. Bank of Am.,
15 No. CV1500587MMMFFMX, 2015 WL 12697873, at *4 (C.D. Cal. Nov. 3,
16 2015); see also Fed. R. Civ. P. 12(f). Accordingly, all claims
17 against newly-named Defendants are hereby stricken from the FAC.⁶

18 B. Official Capacity Claims

19 This Court's earlier Order explained that official capacity
20 suits are another way of suing a governmental entity. (Dkt. 26 at
21 6-7.) The court therefore dismissed, with leave to amend,
22 Plaintiffs' official capacity claims against multiple County
23 supervisors as duplicative and redundant. (Id. at 7-8.)
24 Nevertheless, Plaintiffs' FAC again alleges official capacity
25 claims against several County supervisors, in clear disregard of
26 this Court's Order. Indeed, Plaintiffs repeat, verbatim, arguments

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28 ⁶ For the same reason, Plaintiffs' new prayer for injunctive
relief is also stricken.

1 that this Court has explicitly rejected. For example,
2 notwithstanding this Court's conclusion that "Plaintiffs' desire to
3 get attention from particular elected officials is not sufficient
4 to justify the maintenance of duplicative and redundant claims,"
5 Plaintiffs' opposition repeats the prior assertion that multiple
6 official capacity claims should be allowed to proceed because
7 "attention needs to be gotten from each of the [] supervisor
8 defendants." (Opp. at 23:3-4.) (compare Dkt. 21 at 16:9-10 ("The
9 attention needs to be gotten from each of the [] supervisor
10 defendants.")) Plaintiffs' repeated, duplicative official
11 capacity claims are hereby stricken. Fed. R. Civ. P. 12(f).

12 C. Monell Claims

13 The original Complaint alleged that "[e]ach defendant in
14 his/her official capacity knowingly, or grossly negligently, or
15 with deliberate indifference . . . caused to come into being,
16 maintained, fostered, condoned, approved of, . . . ratified, took
17 no action to correct, an official policy, practice, procedure, or
18 custom of permitting the occurrence of the categories of wrongs set
19 forth in this pleading, . . . so that each one of them is legally
20 responsible for all of the injuries and/or damages sustained by any
21 plaintiff pursuant to the principles set forth in Monell v. New
22 York City Dept. of Social Services and its progeny." (Compl. ¶
23 11.) This Court dismissed the claims as conclusory, with leave to
24 amend. (Dkt. 26 at 6.)

25 The FAC's Monell allegations, however, are virtually
26 indistinguishable from those in the original Complaint. Indeed,
27 Plaintiffs' Opposition to the instant motion, purporting to quote
28 portions of the FAC, in fact repeats the very same allegations of


1 the original Complaint that this Court already found to be
2 impermissibly conclusory.⁷ (Opp. at 15-16.) Because Plaintiffs'
3 amended Monell allegations do no more than repeat claims that have
4 already been dismissed, the amended claims are stricken.⁸ See Fed.
5 R. Civ. P. 12(f).

6 **III. Conclusion**

7 For the reasons stated above, Defendants' Motion to Strike is
8 GRANTED. Having stricken all of the claims in the FAC, the court
9 grants Plaintiffs leave to amend one final time. Once again, the
10 scope of the court's leave to amend is limited to the issues
11 addressed in this Court's Order dismissing Plaintiffs' original
12 Complaint. Plaintiffs are cautioned that any further amendments
13 directly contrary to this Court's Orders may result not only in
14 dismissal of all claims with prejudice, but in possible sanctions
15 as well. Any Second Amended Complaint shall be filed within
16 fourteen days of the date of this Order.

17 IT IS SO ORDERED.

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19 Dated: July 28, 2023



DEAN D. PREGERSON
United States District Judge

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25 ⁷ See note 5, above.

26 ⁸ To the extent Defendants contend that any reference to
27 Sheriff's Department policies are "new subject matter," the court
28 does not necessarily agree. Plaintiffs' original Complaint did
include allegations, albeit conclusory ones, of Defendants'
wrongful action (or inaction) "with respect to the police" and
"supervision of the Sheriff's Department." (Compl. ¶¶ 11, 21.)